

CUSTOMS BULLETIN AND DECISIONS

Weekly Compilation of

Decisions, Rulings, Regulations, Notices, and Abstracts

Concerning Customs and Related Matters of the

U.S. Customs Service

U.S. Court of Appeals for the Federal Circuit

and

U.S. Court of International Trade

VOL. 34

MAY 17, 2000

NO. 20

This issue contains:

U.S. Customs Service

T.D. 00-28 Through 00-30

General Notices

NOTICE

The decisions, rulings, regulations, notices and abstracts which are published in the CUSTOMS BULLETIN are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Office of Finance, Logistics Division, National Support Services Center, Washington, DC 20229, of any such errors in order that corrections may be made before the bound volumes are published.

**Please visit the U.S. Customs Web at:
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U.S. Customs Service

Treasury Decisions

(T.D. 00-28)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR APRIL 2000

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Holiday(s): None.

Austria schilling:

April 1, 2000	\$0.069577
April 2, 2000 .....	.069577
April 3, 2000 .....	.069475
April 4, 2000 .....	.069679
April 5, 2000 .....	.070107
April 6, 2000 .....	.069621
April 7, 2000 .....	.069693
April 8, 2000 .....	.069693
April 9, 2000 .....	.069693
April 10, 2000 .....	.069679
April 11, 2000 .....	.069701
April 12, 2000 .....	.069410
April 13, 2000 .....	.069214
April 14, 2000 .....	.069504
April 15, 2000 .....	.069504
April 16, 2000 .....	.069504
April 17, 2000 .....	.069403
April 18, 2000 .....	.068872
April 19, 2000 .....	.068087
April 20, 2000 .....	.068138
April 21, 2000 .....	.068160
April 22, 2000 .....	.068160
April 23, 2000 .....	.068160
April 24, 2000 .....	.068283
April 25, 2000 .....	.067331
April 26, 2000 .....	.066983
April 27, 2000 .....	.066009
April 28, 2000 .....	.066052
April 29, 2000 .....	.066052
April 30, 2000 .....	.066052

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for April 2000 (continued):

Belgium franc:

April 1, 2000	\$.023733
April 2, 2000	.023733
April 3, 2000	.023699
April 4, 2000	.023768
April 5, 2000	.023914
April 6, 2000	.023748
April 7, 2000	.023773
April 8, 2000	.023773
April 9, 2000	.023773
April 10, 2000	.023768
April 11, 2000	.023775
April 12, 2000	.023676
April 13, 2000	.023609
April 14, 2000	.023709
April 15, 2000	.023709
April 16, 2000	.023709
April 17, 2000	.023674
April 18, 2000	.023493
April 19, 2000	.023225
April 20, 2000	.023242
April 21, 2000	.023250
April 22, 2000	.023250
April 23, 2000	.023250
April 24, 2000	.023292
April 25, 2000	.022967
April 26, 2000	.022848
April 27, 2000	.022516
April 28, 2000	.022531
April 29, 2000	.022531
April 30, 2000	.022531

Finland markka:

April 1, 2000	\$.161023
April 2, 2000	.161023
April 3, 2000	.160788
April 4, 2000	.161259
April 5, 2000	.162251
April 6, 2000	.161124
April 7, 2000	.161292
April 8, 2000	.161292
April 9, 2000	.161292
April 10, 2000	.161259
April 11, 2000	.161309
April 12, 2000	.160636
April 13, 2000	.160182
April 14, 2000	.160855
April 15, 2000	.160855
April 16, 2000	.160855
April 17, 2000	.160619
April 18, 2000	.159392
April 19, 2000	.157575
April 20, 2000	.157693
April 21, 2000	.157743
April 22, 2000	.157743
April 23, 2000	.157743
April 24, 2000	.158029

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for April 2000 (continued):

Finland markka (continued):

April 25, 2000	\$0.155826
April 26, 2000 .....	.155019
April 27, 2000 .....	.152765
April 28, 2000 .....	.152866
April 29, 2000 .....	.152866
April 30, 2000 .....	.152866

France franc:

April 1, 2000	\$0.145955
April 2, 2000 .....	.145955
April 3, 2000 .....	.145741
April 4, 2000 .....	.146168
April 5, 2000 .....	.147068
April 6, 2000 .....	.146046
April 7, 2000 .....	.146199
April 8, 2000 .....	.146199
April 9, 2000 .....	.146199
April 10, 2000 .....	.146168
April 11, 2000 .....	.146214
April 12, 2000 .....	.145604
April 13, 2000 .....	.145192
April 14, 2000 .....	.145802
April 15, 2000 .....	.145802
April 16, 2000 .....	.145802
April 17, 2000 .....	.145589
April 18, 2000 .....	.144476
April 19, 2000 .....	.142829
April 20, 2000 .....	.142936
April 21, 2000 .....	.142982
April 22, 2000 .....	.142982
April 23, 2000 .....	.142982
April 24, 2000 .....	.143241
April 25, 2000 .....	.141244
April 26, 2000 .....	.140512
April 27, 2000 .....	.138469
April 28, 2000 .....	.138561
April 29, 2000 .....	.138561
April 30, 2000 .....	.138561

Germany deutsche mark:

April 1, 2000	\$0.489511
April 2, 2000 .....	.489511
April 3, 2000 .....	.488795
April 4, 2000 .....	.490227
April 5, 2000 .....	.493243
April 6, 2000 .....	.489818
April 7, 2000 .....	.490329
April 8, 2000 .....	.490329
April 9, 2000 .....	.490329
April 10, 2000 .....	.490227
April 11, 2000 .....	.490380
April 12, 2000 .....	.488335
April 13, 2000 .....	.486954
April 14, 2000 .....	.489000
April 15, 2000 .....	.489000
April 16, 2000 .....	.489000

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for April 2000 (continued):

Germany deutsche mark (continued):

April 17, 2000	\$0.488284
April 18, 2000	.484551
April 19, 2000	.479029
April 20, 2000	.479387
April 21, 2000	.479541
April 22, 2000	.479541
April 23, 2000	.479541
April 24, 2000	.480410
April 25, 2000	.473712
April 26, 2000	.471258
April 27, 2000	.464406
April 28, 2000	.464713
April 29, 2000	.464713
April 30, 2000	.464713

Greece drachma:

April 1, 2000	\$0.002859
April 2, 2000	.002859
April 3, 2000	.002856
April 4, 2000	.002860
April 5, 2000	.002880
April 6, 2000	.002861
April 7, 2000	.002864
April 8, 2000	.002864
April 9, 2000	.002864
April 10, 2000	.002865
April 11, 2000	.002865
April 12, 2000	.002854
April 13, 2000	.002843
April 14, 2000	.002853
April 15, 2000	.002853
April 16, 2000	.002853
April 17, 2000	.002849
April 18, 2000	.002823
April 19, 2000	.002794
April 20, 2000	.002795
April 21, 2000	.002795
April 22, 2000	.002795
April 23, 2000	.002795
April 24, 2000	.002798
April 25, 2000	.002759
April 26, 2000	.002742
April 27, 2000	.002700
April 28, 2000	.002702
April 29, 2000	.002702
April 30, 2000	.002702

Ireland pound:

April 1, 2000	\$1.215647
April 2, 2000	1.215647
April 3, 2000	1.213870
April 4, 2000	1.217425
April 5, 2000	1.224916
April 6, 2000	1.216409
April 7, 2000	1.217679
April 8, 2000	1.217679

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for
April 2000 (continued):

Ireland pound (continued):

April 9, 2000	\$1.217679
April 10, 2000	1.217425
April 11, 2000	1.217806
April 12, 2000	1.212727
April 13, 2000	1.209299
April 14, 2000	1.214377
April 15, 2000	1.214377
April 16, 2000	1.214377
April 17, 2000	1.212600
April 18, 2000	1.203331
April 19, 2000	1.189618
April 20, 2000	1.190506
April 21, 2000	1.190887
April 22, 2000	1.190887
April 23, 2000	1.190887
April 24, 2000	1.193046
April 25, 2000	1.176412
April 26, 2000	1.170318
April 27, 2000	1.153303
April 28, 2000	1.154065
April 29, 2000	1.154065
April 30, 2000	1.154065

Italy lira:

April 1, 2000	\$0.000494
April 2, 2000	.000494
April 3, 2000	.000494
April 4, 2000	.000495
April 5, 2000	.000498
April 6, 2000	.000495
April 7, 2000	.000495
April 8, 2000	.000495
April 9, 2000	.000495
April 10, 2000	.000495
April 11, 2000	.000495
April 12, 2000	.000493
April 13, 2000	.000492
April 14, 2000	.000494
April 15, 2000	.000494
April 16, 2000	.000494
April 17, 2000	.000493
April 18, 2000	.000489
April 19, 2000	.000484
April 20, 2000	.000484
April 21, 2000	.000484
April 22, 2000	.000484
April 23, 2000	.000484
April 24, 2000	.000485
April 25, 2000	.000478
April 26, 2000	.000476
April 27, 2000	.000469
April 28, 2000	.000469
April 29, 2000	.000469
April 30, 2000	.000469

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for April 2000 (continued):

Luxembourg franc:

April 1, 2000	\$0.023733
April 2, 2000	.023733
April 3, 2000	.023699
April 4, 2000	.023768
April 5, 2000	.023914
April 6, 2000	.023748
April 7, 2000	.023773
April 8, 2000	.023773
April 9, 2000	.023773
April 10, 2000	.023768
April 11, 2000	.023775
April 12, 2000	.023676
April 13, 2000	.023609
April 14, 2000	.023709
April 15, 2000	.023709
April 16, 2000	.023709
April 17, 2000	.023674
April 18, 2000	.023493
April 19, 2000	.023225
April 20, 2000	.023242
April 21, 2000	.023250
April 22, 2000	.023250
April 23, 2000	.023250
April 24, 2000	.023292
April 25, 2000	.022967
April 26, 2000	.022848
April 27, 2000	.022516
April 28, 2000	.022531
April 29, 2000	.022531
April 30, 2000	.022531

Netherlands guilder:

April 1, 2000	\$0.434449
April 2, 2000	.434449
April 3, 2000	.433814
April 4, 2000	.435084
April 5, 2000	.437762
April 6, 2000	.434721
April 7, 2000	.435175
April 8, 2000	.435175
April 9, 2000	.435175
April 10, 2000	.435084
April 11, 2000	.435221
April 12, 2000	.433405
April 13, 2000	.432180
April 14, 2000	.433995
April 15, 2000	.433995
April 16, 2000	.433995
April 17, 2000	.433360
April 18, 2000	.430048
April 19, 2000	.425147
April 20, 2000	.425464
April 21, 2000	.425600
April 22, 2000	.425600
April 23, 2000	.425600
April 24, 2000	.426372

**FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for
April 2000 (continued):**

Netherlands guilder (continued):

April 25, 2000	\$0.420427
April 26, 2000 .....	.418249
April 27, 2000 .....	.412169
April 28, 2000 .....	.412441
April 29, 2000 .....	.412441
April 30, 2000 .....	.412441

Portugal escudo:

April 1, 2000	\$0.004775
April 2, 2000 .....	.004775
April 3, 2000 .....	.004769
April 4, 2000 .....	.004782
April 5, 2000 .....	.004812
April 6, 2000 .....	.004778
April 7, 2000 .....	.004783
April 8, 2000 .....	.004783
April 9, 2000 .....	.004783
April 10, 2000 .....	.004782
April 11, 2000 .....	.004784
April 12, 2000 .....	.004764
April 13, 2000 .....	.004751
April 14, 2000 .....	.004771
April 15, 2000 .....	.004771
April 16, 2000 .....	.004771
April 17, 2000 .....	.004764
April 18, 2000 .....	.004727
April 19, 2000 .....	.004673
April 20, 2000 .....	.004677
April 21, 2000 .....	.004678
April 22, 2000 .....	.004678
April 23, 2000 .....	.004678
April 24, 2000 .....	.004687
April 25, 2000 .....	.004621
April 26, 2000 .....	.004597
April 27, 2000 .....	.004531
April 28, 2000 .....	.004534
April 29, 2000 .....	.004534
April 30, 2000 .....	.004534

South Korea won:

April 1, 2000	\$0.000905
April 2, 2000 .....	.000905
April 3, 2000 .....	.000898
April 4, 2000 .....	.000898
April 5, 2000 .....	.000896
April 6, 2000 .....	.000899
April 7, 2000 .....	.000903
April 8, 2000 .....	.000903
April 9, 2000 .....	.000903
April 10, 2000 .....	.000900
April 11, 2000 .....	.000901
April 12, 2000 .....	.000902
April 13, 2000 .....	.000903
April 14, 2000 .....	.000900
April 15, 2000 .....	.000900
April 16, 2000 .....	.000900

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for April 2000 (continued):

South Korea won (continued):

April 17, 2000	\$0.000898
April 18, 2000	.000901
April 19, 2000	.000901
April 20, 2000	.000902
April 21, 2000	.000902
April 22, 2000	.000902
April 23, 2000	.000902
April 24, 2000	.000902
April 25, 2000	.000902
April 26, 2000	.000902
April 27, 2000	.000900
April 28, 2000	.000901
April 29, 2000	.000901
April 30, 2000	.000901

Spain peseta:

April 1, 2000	\$0.005754
April 2, 2000	.005754
April 3, 2000	.005746
April 4, 2000	.005763
April 5, 2000	.005798
April 6, 2000	.005758
April 7, 2000	.005764
April 8, 2000	.005764
April 9, 2000	.005764
April 10, 2000	.005763
April 11, 2000	.005764
April 12, 2000	.005740
April 13, 2000	.005724
April 14, 2000	.005748
April 15, 2000	.005748
April 16, 2000	.005748
April 17, 2000	.005740
April 18, 2000	.005696
April 19, 2000	.005631
April 20, 2000	.005635
April 21, 2000	.005637
April 22, 2000	.005637
April 23, 2000	.005637
April 24, 2000	.005647
April 25, 2000	.005568
April 26, 2000	.005540
April 27, 2000	.005459
April 28, 2000	.005463
April 29, 2000	.005463
April 30, 2000	.005463

Taiwan N.T. dollar:

April 1, 2000	\$0.032808
April 2, 2000	.032808
April 3, 2000	.032787
April 4, 2000	.032841
April 5, 2000	.032787
April 6, 2000	.032808
April 7, 2000	.032787
April 8, 2000	.032787

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for April 2000 (continued):

Taiwan N.T. dollar (continued):

April 9, 2000	\$0.032787
April 10, 2000 .....	.032949
April 11, 2000 .....	.032949
April 12, 2000 .....	.032949
April 13, 2000 .....	.032949
April 14, 2000 .....	.032841
April 15, 2000 .....	.032841
April 16, 2000 .....	.032841
April 17, 2000 .....	.032733
April 18, 2000 .....	.032680
April 19, 2000 .....	.032658
April 20, 2000 .....	.032733
April 21, 2000 .....	.032696
April 22, 2000 .....	.032696
April 23, 2000 .....	.032696
April 24, 2000 .....	.032680
April 25, 2000 .....	.032626
April 26, 2000 .....	.032626
April 27, 2000 .....	.032626
April 28, 2000 .....	.032605
April 29, 2000 .....	.032605
April 30, 2000 .....	.032605

Dated: May 1, 2000.

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.

(T.D. 00-29)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR APRIL 2000

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in Treasury Decision 00-24 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Holiday(s): None.

Denmark krone:

April 27, 2000	\$0.121818
April 28, 2000 .....	.122048
April 29, 2000 .....	.122048
April 30, 2000 .....	.122048

FOREIGN CURRENCIES—Variances from quarterly rates for April 2000
(continued):

Norway krone:

April 27, 2000	\$0.111460
April 28, 2000 .....	.111620
April 29, 2000 .....	.111620
April 30, 2000 .....	.111620

Dated: May 1, 2000.

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.

(T.D. 00-30)

BONDS

APPROVAL TO USE
AUTHORIZED FACSIMILE SIGNATURES AND SEALS

The use of facsimile signatures and seals on Customs bonds by the following corporate surety has been approved effective July 1, 2000:

XL Specialty Insurance Company

Authorized facsimile signatures on file for:

Stanley A. Galanski, Attorney-in-fact

Mathew L. Zehner, Attorney-in-fact

The corporate surety has provided the Customs Service with copies of the signatures to be used, a copy of the corporate seal, and a certified copy of the corporate resolution agreeing to be bound by the facsimile signatures and seals. This approval is without prejudice to the surety's right to affix signatures and seals manually.

Dated: May 3, 2000.

LARRY L. BURTON,
Acting Chief,
Entry Procedures and Carriers Branch.

U.S. Customs Service

General Notices

PROPOSED COLLECTION; COMMENT REQUEST

DECLARATION FOR FREE ENTRY OF UNACCOMPANIED ARTICLES

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Declaration for Free Entry of Unaccompanied Articles. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 3, 2000, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will

be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Declaration for Free Entry of Unaccompanied Articles

OMB Number: 1515-0053

Form Number: N/A

Abstract: The Declaration for Free Entry of Unaccompanied Articles, Customs Form 3299, is prepared by the individual or the broker acting as agent for the individual, or in some cases, the Customs officer. It serves as a declaration for duty-free entry of merchandise under one of the applicable provisions of the tariff schedule.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 10,000

Estimated Time Per Respondent: 10 minutes

Estimated Total Annual Burden Hours: 25,000

Estimated Total Annualized Cost on the Public: N/A

Dated: April 26, 2000.

J. EDGAR NICHOLS,
*Agency Clearance Officer,
Information Services Branch.*

[Published in the Federal Register, May 3, 2000 (65 FR 25790)]

PROPOSED COLLECTION; COMMENT REQUEST

APPLICATION TO ESTABLISH CENTRALIZED EXAMINATION STATION

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application to Establish Centralized Examination Station. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 3, 2000, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Application to Establish Centralized Examination Station

OMB Number: 1515-0183

Form Number: N/A

Abstract: A port director decides when their port needs one or more Centralized Examination Stations (CES). They announce this need and solicits applications to operate a CES. The information contained in the application will be used to determine the suitability of the applicant's facility, the fairness of his fee structure, his knowledge of cargo handling operations and his knowledge of Customs procedures.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 50

Estimated Time Per Respondent: 2 hours (120 minutes)

Estimated Total Annual Burden Hours: 100

Estimated Total Annualized Cost on the Public: N/A

Dated: April 26, 2000.

J. EDGAR NICHOLS,
Agency Clearance Officer,
Information Services Branch.

PROPOSED COLLECTION; COMMENT REQUEST

SERIALLY NUMBERED SUBSTANTIAL HOLDERS OR CONTAINERS

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Serially Numbered Substantial Holders or Containers. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 3, 2000, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Serially Numbered Substantial Holders or Containers

OMB Number: 1515-0101

Form Number: N/A

Abstract: The marking is used to provide for duty free entry of holders or containers which were manufactured in the United States and exported and returned without having been advanced in value or improved in condition by ant process or manufacture. The regulations

provide for duty free entry of holders or containers of foreign manufacture if duty has been paid before.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Institutions

Estimated Number of Respondents: 20

Estimated Time Per Respondent: 4.5 hours

Estimated Total Annual Burden Hours: 90

Estimated Total Annualized Cost on the Public: N/A

Dated: April 26, 2000.

J. EDGAR NICHOLS,
*Agency Clearance Officer,
Information Services Branch.*

[Published in the Federal Register, May 3, 2000 (65 FR 25793)]

PROPOSED COLLECTION; COMMENT REQUEST

APPLICATION/PERMIT/SPECIAL LICENCE, UNLADING/LADING OVERTIME SERVICE

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application/Permit/Special Licence, Unlading/Lading Overtime Service. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 3, 2000, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Branch, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pur-

suant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Application/Permit/Special Licence, Unlading/Lading Overtime Service

OMB Number: 1515-0013

Form Number: Customs Form 3171

Abstract: Customs Form 3171, is used by commercial carriers and importers as a request for permission to unlade imported merchandise, baggage, or passengers and for overtime services of Customs officers in connection with lading or unlading of merchandise, or the entry or clearance of a vessel, including the boarding of a vessel for preliminary supplies, ship's stores, sea stores, or equipment not to be reladen, which is subject to free or duty-paid entry.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 1,500

Estimated Time Per Respondent: 6 minutes

Estimated Total Annual Burden Hours: 39,900

Estimated Total Annualized Cost on the Public: N/A

Dated: April 26, 2000.

J. EDGAR NICHOLS,
Agency Clearance Officer,
Information Services Group.

[Published in the Federal Register, May 3, 2000 (65 FR 25792)]

PROPOSED COLLECTION; COMMENT REQUEST

APPLICATION FOR ALLOWANCE IN DUTIES

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Allowance in Duties. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 3, 2000, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Branch, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Application for Allowance in Duties

OMB Number: 1515-0022

Form Number: Customs Form 4315

Abstract: This collection is required by the Customs Service in instances of claims of damaged or defective merchandise on which an allowance in duty is made in the liquidation of the entry. The information is used to substantiate importers claims for such duty allowances.

Current Actions: There are no changes to the information collection. This submission is to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 12,000

Estimated Time Per Respondent: 8 minutes

Estimated Total Annual Burden Hours: 1,600

Estimated Total Annualized Cost on the Public: N/A

Dated: April 26, 2000.

J. EDGAR NICHOLS,
*Agency Clearance Officer,
Information Services Branch.*

[Published in the Federal Register, May 3, 2000 (65 FR 25792)]

PROPOSED COLLECTION; COMMENT REQUEST

APPLICATION FOR FOREIGN TRADE ZONE ADMISSION AND/OR STATUS TRANSACTION, APPLICATION FOR FOREIGN TRADE ZONE ACTIVITY REPORT

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, Customs invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Foreign Trade Zone Admission and/or Status Transaction, Application for Foreign Trade Zone Activity Report. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before July 3, 2000, to be assured of consideration.

ADDRESS: Direct all written comments to U.S. Customs Service, Information Services Branch, Room 3.2.C, 1300 Pennsylvania Avenue, NW, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: J. Edgar Nichols, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, D.C. 20229, Tel. (202) 927-1426.

SUPPLEMENTARY INFORMATION:

Customs invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pur-

suant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the Customs request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document Customs is soliciting comments concerning the following information collection:

Title: Application for Foreign Trade Zone Admission and/or Status Transaction, Application for Foreign Trade Zone Activity Report

OMB Number: 1515-0086

Form Number: Customs Forms 214, 214A, 214B, 214C, and 216

Abstract: Customs Forms 214, 214A, 214B, and 214C, Application for Foreign-Trade Zone Admission and/or Status Designation, are used by business firms which bring merchandise into a foreign trade zone, to register the admission of such merchandise to zones and to apply for the appropriate zone status.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change)

Affected Public: Businesses, Individuals, Institutions

Estimated Number of Respondents: 6,514

Estimated Time Per Respondent: 15 minutes

Estimated Total Annual Burden Hours: 18,001

Estimated Total Annualized Cost on the Public: \$279,300

Dated: April 26, 2000.

J. EDGAR NICHOLS,
Agency Clearance Officer,
Information Services Branch.

[Published in the Federal Register, May 3, 2000 (65 FR 25791)]

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, May 3, 2000.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

STUART P. SEIDEL,
*Assistant Commissioner,
Office of Regulations and Rulings.*

PROPOSED MODIFICATION OF CUSTOMS RULING LETTER &
TREATMENT RELATING TO TARIFF CLASSIFICATION OF
JEWELRY ROLLS

AGENCY: U.S. Customs Service, Department of Treasury.

ACTION: Notice of proposed modification of tariff classification ruling letter and treatment relating to the classification of jewelry rolls.

SUMMARY: Pursuant to Section 625(c), Tariff Act of 1930, as amended, (19 U.S.C. 1625(c)), this notice advises interested parties that Customs intends to modify a ruling letter pertaining to the tariff classification of two jewelry rolls. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before June 16, 2000.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to the U.S. Customs Service, Office of Regulations and Rulings, Attention: Commercial Ruling Division, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the same address.

FOR FURTHER INFORMATION CONTACT: Mary Beth Goodman, Textile Branch, (202) 927-1368.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended,

and related laws. Two new concepts which emerge from the law are **"informed compliance"** and **"shared responsibility."** These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended, (19 U.S.C. § 1484) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs intends to modify a ruling pertaining to the classification of two jewelry rolls from El Salvador. Although in this notice Customs is specifically referring to one ruling, District Ruling C89581, this notice covers any rulings on this merchandise, which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise Customs during this notice period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to modify any treatment previously accorded by the Customs Service to substantially identical merchandise. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations involving the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule. Any person involved in substantially identical transactions should advise Customs during this notice and comment period. An importer's failure to advise Customs of substantially identical merchandise or of a specific ruling not identified in this notice may raise the rebuttable presumption of lack of reasonable care on the part of the importer or its agents for importations subsequent to the effective date of the final decision of this notice.

In C89581, dated July 29, 1998, concerning the tariff classification of jewelry rolls of textile material with an outer surface of vinyl, the products were erroneously classified under subheading 4202.92.45 of the Harmonized Tariff Schedule of the United States (HTSUS), which provides for travel, sports and similar bags with an outer surface of sheet-

ing of plastic. District Ruling C89581 is set forth as "Attachment A" to this document. The correct classification for the product should be under subheading 4202.92.90 of the HTSUS, as other specially shaped or fitted containers.

Customs, pursuant to 19 U.S.C. 1625(c)(1), intends to modify C89581, and any other ruling not specifically identified on identical or substantially similar merchandise to reflect the proper classification within the HTSUS pursuant to the analysis set forth in Proposed Headquarter Ruling (HQ) 962245 (see "Attachment B" to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical merchandise. Before taking this action, consideration will be given to any written comments timely received.

Dated: April 26, 2000.

JOHN E. ELKINS,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC, July 29, 1998.
CLA-2-42:G32 C89581
Category: Classification
Tariff No. 4202.92.9060 and 4202.92.4500

MR. PETER D. ALBERDI
A. J. ARANGO, INC.
1516 E. 8th Avenue
Tampa, FL 33605

Re: The tariff classification of a Watch Folder and Jewelry Rolls from El Salvador.

DEAR MR. ALBERDI:

In your letter dated June 19, 1998, you requested a tariff classification ruling on behalf of your client, Bufkor Inc., 13100 56th CT. North, #710, Clearwater, FL 34620.

Item No. 1, is described as a watch folder with an outer surface of vinyl. In its closed condition, the item measures approximately 2½ inches in length x 9½ inches in width. The article has metal tips on each corner with a logo "BUFKOR" located at the lower right-hand side. When opened, there is a pocket in which to secure the item.

Item No. 2, is described as a jewelry roll with an outer surface of vinyl. The item is designed to contain jewelry or other personal items. The item measures approximately 3½ inches in length x 6½ inches in width. The article has metal tips on each corner with a logo "Porcell Jewelers Portland" located at the lower right-hand side. When opened, the sample is lined in man-made textile materials with two zippered compartments. A 6½ inch strip with holds is intended to hold seven sets of earrings. In addition, there is a padded strap in which to hold rings or longer items. The jewelry roll when folded is secured with a snap closure.

Item No 3, is described as a small jewelry roll with an outer surface of vinyl. The item is designed to contain jewelry or other personal items. When folded, the item measures

approximately 2½ inches in length x 4½ inches in width. At the center of the sample is printed "ORBIS". The sample is lined in man-made textile materials. There is one zippered compartment, a strap to hold five sets of earrings, and a strap to hold rings or to hang other personal items. The jewelry roll when folded is secured by a snap closure.

Please be advised that your samples will be returned to the above address.

The applicable subheading for the watch folder will be 4202.92.9260, Harmonized Tariff Schedule of the United States (HTS), which provides for other containers, with an outer surface of sheeting of plastic, other, other. The rate of duty will be 16.6 percent ad valorem.

The applicable subheading for the jewelry rolls will be 4202.92.4500, Harmonized Tariff Schedule of the United States (HTS), which provides for travel, sports and similar containers, with an outer surface of sheeting of plastic, other, other. The rate of duty will be 17.5 percent ad valorem.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported.

WILLIAM J. LUEBKERT,
Port Director,
Philadelphia, PA.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC.
CLA-2 RR:CR:TE MBG
Category: Classification
Tariff No. 4202.92.90

MR. PETER D. ALBERDI
A.J. ARANGO, INC.
1516 East 8th Avenue
Tampa, FL 33605

Re: Modification of C89581; Classification of Jewelry Rolls.

DEAR MR. ALBERDI:

On July 29, 1998, Customs issued Port Decision C89581 to your company on behalf of Bufkor, Inc., regarding the tariff classification of two jewelry rolls with outer surfaces of vinyl. The jewelry rolls were originally classified under subheading 4202.92.4500 of the Harmonized Tariff Schedule of the United States Annotated ("HTSUSA"). Upon review, Customs has determined that the jewelry rolls were erroneously classified under 4202.92.4500, HTSUSA. The correct classification for the merchandise should be under subheading 4202.92.90, HTSUSA based on the classification as a jewelry roll "with an outer surface of sheeting of plastic or of textile materials," however, Customs is unable to determine the essential characteristic of the jewelry rolls to provide classification at the ten digit level without samples of the subject merchandise.

Facts:

The first item under reconsideration is a jewelry roll with an outer surface of vinyl. The item is designed to contain jewelry or other personal items. The item measures approximately 3½ inches in length by 6½ inches in width. The item has metal tips on each corner with a logo "Porcell Jewelers Portland" located at the lower right-hand side. When opened, the sample is lined in man-made textile materials with two zippered compartments. A 6½ inch strip is intended to hold seven sets of earrings. In addition, there is a padded strap which holds rings or longer items. The jewelry roll when folded is secured with a snap closure.

The second item under reconsideration is described as a small jewelry roll with an outer surface of vinyl. The item is designed to contain jewelry or other personal items. When folded, the item measures approximately 2½ inches in length by 4½ inches in width. At the center of the sample is printed "ORBIS." The sample is lined in man-made textile mater-

ials. There is one zippered compartment, a strap to hold five sets of earrings, and a strap to hold rings or to hang other personal items. When folded, the jewelry roll is secured by a snap closure.

Issue:

What is the proper classification of the jewelry rolls under the HTSUSA?

Law and Analysis:

Classification of goods under the HTSUSA is governed by the General Rules of Interpretation ("GRI's"). GRI 1 provides that classification shall be determined according to the terms of the heading of the tariff schedule and any relative section or chapter notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRI may then be applied. The Explanatory Notes ("EN") to the Harmonized Commodity Description and Coding System, which represent the official interpretation of the tariff at the international level, facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRI.

Heading 4202, HTSUSA provides for "Trunks, Suit-Cases, Vanity-Cases, Executive-Cases, Briefcases, School Satchels, Spectacle Cases, Binocular Cases, Camera Cases, Musical Instrument Cases, Gun Cases, Holsters and Similar Containers; Travelling-Bags, Toilet Bags, Rucksacks, Handbags, Shopping-Bags, Wallets, Purses, Map-Cases, Cigarette-Cases, Tobacco-Pouches, Tool Bags, Sports Bags, Bottle-Cases, **Jewellery Boxes**, Powder-Boxes, Cutlery Cases and **Similar Containers**, of Leather or of Composition Leather, of Sheetting of Plastics, of Textile Materials, of Vulcanised Fibre or of Paperboard, or Wholly or Mainly Covered with Such Materials or With Paper." (Emphasis added).

Thus, this heading encompasses the articles enumerated, as well as containers similar to these articles.

The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System constitute the official interpretation of the nomenclature at the international level. While not legally binding, they do represent the considered views of classification experts of the Harmonized System Committee. It has therefore been the practice of the Customs Service to follow, whenever possible, the terms of the EN when interpreting the HTSUSA.

The EN to heading 4202, HTSUSA, state, in pertinent part:

The articles covered by the second part of the heading must, however, be only of the materials specified therein or must be wholly or mainly covered with such materials or with paper (the foundation may be of wood, metal, etc.). The expression "similar containers" in this second part includes note-cases, writing-cases, pen-cases, ticket-cases, needle-cases, key-cases, cigar-cases, pipe-cases, tool and **jewellery** [sic] rolls, shoe-cases, brush-cases, etc.

(Emphasis added.)

When these products were originally reviewed by Customs, an error occurred in the classification at the subheading level. Merchandise classified in subheading 4202.92.4500, HTSUSA, are generic bags of a class or kind designed to contain personal effects or property such as toiletries, articles of jewelry, or other accessories; however, such containers and bags are not specifically shaped. The articles under reconsideration are specially shaped or fitted containers designed to contain a specific article of jewelry or set of jewelry articles and, therefore, the jewelry rolls are provided for in subheading 4202.92.90, HTSUSA. However, without a sample, Customs is unable to determine the essential character of the jewelry rolls and as such classification of the merchandise is based on the 8 digit level. Classification at the ten digit level will be completed upon the receipt of samples for the subject jewelry rolls.

Holding:

This ruling modifies PD C89581 and classifies the jewelry rolls under subheading 4202.92.90, HTSUSA, which provides for "other containers, other, with outer surface of plastic sheeting or of textile materials, other, other, other."

JOHN DURANT,
Director,
Commercial Rulings Division.

REVOCATION AND MODIFICATION OF RULING LETTERS AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF CERTAIN MARBLE FIREPLACE SURROUNDS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation and modification of tariff classification ruling letters and the revocation of treatment relating to the classification of marble fireplace surrounds.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs is revoking two rulings and modifying another, and is revoking any treatment previously accorded by Customs to substantially identical transactions, concerning the tariff classification of marble fireplace surrounds, under the Harmonized Tariff Schedule of the United States (HTSUS). Notice of the proposed revocations and modification was published on March 22, 2000, in Vol. 34, No. 12 of the CUSTOMS BULLETIN. One comment in favor of the revocations and modification was received.

EFFECTIVE DATE: Merchandise entered or withdrawn from warehouse for consumption on or after July 17, 2000.

FOR FURTHER INFORMATION CONTACT: Andrew M. Langreich,
General Classification Branch: (202) 927-2318.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts, which emerge from the law, are "**informed compliance**" and "**shared responsibility**." These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable

Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met. Pursuant to Customs obligations, a notice of proposed revocation of Headquarters Ruling Letters (HQs) 955505 and 960495 and proposed modification of HQ 960617 was published on March 22, 2000, in Vol. 34, No. 12 of the CUSTOMS BULLETIN. One comment in favor of the revocations and modification was received.

As stated in the proposed notice, these revocations and the modification action will cover any rulings on this merchandise, which may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. § 1625(c)(2)), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUS. Any person involved in substantially identical transactions should have advised Customs during this notice period. An importer's reliance on a treatment of substantially identical transactions or on a specific ruling concerning the merchandise covered by this notice which was not identified in this notice, may raise the rebuttable presumption of lack of reasonable care on the part of the importers or their agents for importations of merchandise subsequent to the effective date of this final decision.

Customs, pursuant to 19 U.S.C. 1625(c)(1), is revoking HQs 955505 and 960495, and is modifying HQ 960617, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 963321 and 963766 (*see* "Attachment A" and "Attachment B" to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is to revoking any treatment previously accorded by Customs to substantially identical transactions.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

Dated: April 26, 2000.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,

U.S. CUSTOMS SERVICE,

Washington, DC, April 26, 2000.

CLA-2 RR:CR:GC 963321 AML

Category: Classification

Tariff No. 6802.91.05

MR. RICHARD H. ABBEY

MR. JOEL W. ROGERS

ABLONDI, FOSTER, SOBIN & DAVIDOW, P.C.

1150 Eighteenth Street

Ninth Floor

Washington, DC 20036-4129

Re: Marble slabs for fireplace surrounds; HQs 955505 revoked and 960617 modified.

DEAR MESSRS. ABBEY AND ROGERS:

This is in reference to Headquarters Ruling Letter (HQ) 955505, dated March 22, 1994, and HQ 960617, dated December 16, 1997, which concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of marble fireplace surrounds (consisting of headers, footers, hearths, risers or legs) in subheading 6802.91.15, HTSUS. In HQ 955505, this office ruled that protest 1704-93-100338, which was filed on July 21, 1993 by Karen Geiger, on behalf of Intercontinental Marble Corp., should be denied. Descriptive literature was provided. In HQ 960617, which was issued to you in response to your April 29, 1997 letter, on behalf of Intercontinental Marble Corp., Customs clarified and upheld the decision made in HQ 955505. HQ 960617 noted that, should similar articles be entered which do not comprise an unassembled fireplace surround, those articles would be classified under subheading 6802.91.05, HTSUS, as marble slabs. In light of the stipulated judgments entered before the Court of International Trade in Court Nos. 94-10-00582 and 97-11-02013, we have reconsidered HQs 955505 and 960617 and now believe that those decisions are incorrect (although, of course, the specific liquidation and protest denial are not affected (see 19 U.S.C. 1514, 1515)). This ruling sets forth the correct classification and the analysis therefor.

Notice of the proposed revocation and modification was published on March 22, 2000, in Vol. 34, No. 12 of the CUSTOMS BULLETIN.

Facts:

The articles in HQ 955505 were described as follows:

The marble fireplace surround[s] * * * are stone articles designed to fit into a fireplace. Each product is an unassembled article consisting of several pieces, i.e., header, riser, legs and hearth, which form a special shape suited for a particular fireplace.

The articles were similarly described in HQ 960617, which analyzed in detail the decision reached in HQ 955505.

Issue:

Whether the marble fireplace surrounds are classified under subheading 6802.91.05, as marble slabs, or under subheading 6802.91.15, HTSUS, as other articles of marble?

Law and Analysis:

The classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that classification is determined according to the terms of the headings and any relative section or chapter notes. GRI 6 provides that for legal purposes, the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, by appropriate substitution of terms, to GRIs 1 through 5, on the understanding that only subheadings at the same level are comparable.

The 1999 HTSUS heading and subheadings under consideration are as follows:

6802

Worked monumental or building stone (except slate) and articles thereof, other than goods of heading 6801; mosaic cubes and the like, of natural stone (including slate), whether or not on a backing; artificially colored granules, chippings and powder, of natural stone (including slate):

Other:

6802.91	Marble, travertine and alabaster:
	Marble:
6802.91.05	Slabs:
6802.91.15	Other.

In HQ 955505, Customs rejected the protestant's contention that the articles, marble fireplace surrounds (consisting of headers, footers, hearths, risers or legs), were classifiable as marble slabs under subheading 6802.91.05, HTSUS. Customs reasoned that because the articles were, in their condition as imported, designed to function as and comprise a complete fireplace surround, the marble slabs were classifiable as other articles of marble under subheading 6802.91.15, HTSUS. That is, by operation of GRI 1, Customs determined that the articles were classifiable under subheading 6802.91, as marble. Pursuant to GRI 6, the remaining GRIs were applied in order to determine which subheading best described the articles as imported. We reasoned that because the marble slabs were installed together to form a uniquely shaped fireplace surround, they comprised an unassembled article and were therefore classifiable as marble other than in slab form.

In HQ 960617, we reaffirmed the determination made in HQ 955505. We reasoned that when the component articles of a fireplace surround are imported together, they are classifiable as an unfinished or unassembled fireplace surround—an article other than marble slabs and therefore classifiable in subheading 6802.91.15, HTSUS. HQ 960617 further held that depending on the "shipment configuration" within which the articles would be imported, the articles would be classified as marble slabs under subheading 6802.91.05, HTSUS. The prospective shipment configurations were described in HQ 960617 as shipments that would consist of marble slabs of a single size to be used as headers, footers, hearths, risers or legs; shipments of mixed pieces, not arranged and packaged as unassembled surrounds; and shipments of pieces arranged in matched, unassembled, but incomplete surrounds (i.e., each shipment would consist of matched marble slabs, but no group of slabs would contain all the pieces necessary to frame a fireplace).

Customs analyzed the classification of the articles imported in these configurations by applying several long-standing principles related to classification, by application of Additional U.S. Note 1 to Chapter 68, and after considering the holdings of two prior rulings. HQ 960617 restated the long-standing rule that an article is to be classified according to its condition as imported. See, *XTC Products, Inc. v. United States*, 771 F.Supp. 401, 405 (1991). See also, *United States v. Citroen*, 223 U.S. 407 (1911). We also restated the rule derived from *United States v. Baldt Anchor, Chain & Forge Division of Boston Metals Co.*, 59 CCPA 122, C.A.D. 1051, 429 F.2d 1403 (1972), and *Franklin Industries, Inc. v. United States*, 1 CIT 349, Slip Op. 81-55 (1981), in which the courts held that to enjoy classification under a single tariff item number, all components necessary to the completion of a particular article must be imported in the same shipment.

Additionally, Customs addressed the effect of Additional U.S. Note 1, Chapter 68, HTSUS (see below), and of HQ 952678, dated December 30, 1992, and HQ 951047, dated September 17, 1992. In HQs 952678 and 951047, Customs held that under the definition provided in Additional U.S. Note 1, Chapter 68, HTSUS, pieces of marble the edges of which were cut more deeply or more widely than 1/32 of an inch were considered to have been "beveled, rounded or otherwise processed" to a greater extent than that needed to facilitate installation. Such pieces were held not to meet the definition of "slabs" of Additional U.S. Note 1, Chapter 68, HTSUS.

Customs has reconsidered its position, and now holds that upon importation, marble headers, footers, hearths, risers or legs for fireplace surrounds, provided they satisfy the criteria provided in Additional U.S. Note 1, Chapter 68, HTSUS, are classifiable in subheading 6802.91.05, HTSUS, as marble slabs.

The marble fireplace surrounds at issue are clearly classifiable under subheading 6802.91, HTSUS, as marble. The issue to be determined is whether the articles are slabs pursuant to Additional U.S. Note 1, Chapter 68, HTSUS, which states:

For the purposes of heading 6802, the term "slabs" embraces flat stone pieces, not over 5.1 cm in thickness, having a facial area of 25.8 cm² or more, the edges of which have not been beveled, rounded or otherwise processed except such processing as may be needed to facilitate installation as tiling or veneering in building construction.

Additional U.S. Note 1 begins "for the purposes of heading 6802 * * *". In heading 6802, HTSUS, the term "slabs" is used as a subheading under the basket provision for "other" worked monumental or building stone. It does not occur elsewhere in the heading. A careful reading of the U.S. Note, and a comparison of the subheadings at the same (8-digit) level

clearly shows that the distinction to be made between "slabs" of heading 6802.91.05, HTSUS, and "other" articles of 6802.91.15, HTSUS, is that of the degree of working or processing to which the articles have been subjected. Such a distinction, based on the degree of work performed, is further evidenced by the terms of other subheadings under 6802, HTSUS (See, e.g., subheading 6802.91.20, HTSUS). The result is that "slabs," as defined in Additional U.S. Note 1, are classified separately from monumental or building stone that has been subjected to substantial working or processing.

When interpreting and implementing the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. Customs believes the ENs should always be consulted. See, T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The ENs to heading 6802, HTSUS, provide, in pertinent part, that:

This heading covers natural monumental or building stone (except slate) which has been worked beyond the stage of the normal quarry products of Chapter 25[.]

The heading therefore covers stone, which has been further processed than mere shaping into blocks, sheets or slabs by splitting, roughly cutting or squaring, or squaring by sawing (square or rectangular faces).

The heading thus covers stone in the forms produced by the stonemason, sculptor, etc., viz.:

(B) Stone of any shape (including blocks, slabs or sheets), whether or not in the form of finished articles, which has been * * * planed, sand dressed, ground, polished, chamfered, moulded, turned, ornamented, carved, etc.

The heading therefore includes not only constructional stone (including facing slabs) worked as above, but also articles such as * * * door or window frames and lintels * * * mantelpieces * * * etc. (Emphasis added.)

Stone slabs forming the tops of articles of furniture (sideboards, washstands, tables, etc.) are classified in Chapter 94 if presented with the pieces of furniture (whether or not assembled) and clearly intended as parts thereof, but such furniture tops presented separately remain in this heading [emphasis added].

The articles, as entered, are slabs of marble which conform to the size restrictions delineated by Additional U.S. Note 1 to Chapter 68 and to the preliminary criteria established in the EN ("stone, which has been further processed than mere shaping into blocks, sheets or slabs by splitting, roughly cutting or squaring, or squaring by sawing (square or rectangular faces)").

Evidence was presented before the CIT that indicated that the articles in Court Nos. 94-10-00582 and 97-11-02013 are not regularly imported as unfinished surrounds. The marble headers, footers, hearths and risers or legs are designed, worked into and intended to be used as marble headers, footers, hearths and risers or legs; completely surrounding a fireplace opening when used in combination, independently (a single hearth, for example), or in any conceivable combination thereof. The marble slabs are imported in the various configurations provided above. The articles are not ready for immediate installation upon importation; rather, the articles are imported cut to general dimensions and must be further worked (e.g., trimmed to specific size) prior to final installation.

Finally, there is no "assembly" of the surrounds. The marble slabs are not joined by fasteners, do not permanently interlock to form a single whole, and do not comprise a single article for classification purposes. The various marble slabs (headers, footers, hearth, risers or legs) are arranged around a fireplace for aesthetic purposes according to the desired effect of the installer. The installation of any of the articles is not dependent upon the installation of the others; the individual articles are simply glued to the wall around a fireplace opening (sometimes referred to as a "firebox"). Thus, although the articles can be matched and installed by the color and pattern of stone, any of the articles can be installed independently of the others. As such, we no longer consider such articles upon importation to be unassembled surrounds. Upon importation, provided the articles comply with the edicts of Additional U.S. Note 1, Chapter 68, HTSUS (see above), and HQs 952678 and HQ 951047, the articles are classifiable under subheading 6802.91.05, HTSUS.

Holding:

The marble fireplace surrounds (designated headers, risers, legs and hearths), whether imported as grouped pieces or as separate pieces, are classified under subheading 6802.91.05, as marble slabs.

Effect on Other Rulings:

HQ 955505, dated March 22, 1994, is REVOKED and HQ 960617, dated December 16, 1997, is MODIFIED. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, April 26, 2000.
CLA-2 RR:CR:GC 963766 AML
Category: Classification
Tariff No. 6802.91.05

MS. PAM BROWN
CARGO U.K., INC.
4790 Aviation Parkway
Atlanta, GA 30349

Re: Marble slabs for fireplace surrounds; HQ 960495 revoked.

DEAR MS. BROWN:

This is in reference to Headquarters Ruling Letter (HQ) 960495, dated December 12, 1997, which concerned the classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of marble fireplace surrounds (consisting of headers, footers, hearths, risers or legs) in subheading 6802.91.15, HTSUS. In light of the stipulated judgments entered before the Court of International Trade in Court Nos. 94-10-00582 and 97-11-02013, we have reconsidered HQ 960495 and now believe that it is incorrect. This ruling sets forth the correct classification and the analysis therefor. Notice of the proposed revocation was published on March 22, 2000, in Vol. 34, No. 12 of the CUSTOMS BULLETIN.

Facts:

The articles in HQ 960495 were described as follows:

The merchandise is described as "[m]arble fireplace kits (unassembled)" and specifications are provided. The merchandise is described as "TAIWAN GREEN" and is stated to have been quarried in Taiwan. According to material you submitted, the pieces of stone making up the kits are polished on both sides. No other information was provided. For purposes of this ruling, we assume that the fireplace kits consist of all of the pieces necessary to form a special shape suited for a particular fireplace, that the pieces are specially cut to size, and that the edges of the pieces have not been beveled, rounded or otherwise processed except to the degree needed to facilitate installation.

Issue:

Whether the marble fireplace surrounds are classified under subheading 6802.91.05, as marble slabs, or under subheading 6802.91.15, HTSUS, as other articles of marble?

Law and Analysis:

The classification of merchandise under the HTSUS is in accordance with the General Rules of Interpretation (GRIs), taken in order. GRI 1 provides that classification is determined according to the terms of the headings and any relative section or chapter notes. GRI 6 provides that for legal purposes, the classification of goods in the subheadings of a head-

ing shall be determined according to the terms of those subheadings and any related subheading notes and, by appropriate substitution of terms, to GRI's 1 through 5, on the understanding that only subheadings at the same level are comparable.

The 1999 HTSUS heading and subheadings under consideration are as follows:

6802	Worked monumental or building stone (except slate) and articles thereof, of other than goods of heading 6801; mosaic cubes and the like, of natural stone (including slate), whether or not on a backing; artificially colored granules, chippings and powder, of natural stone (including slate):
	Other:
6802.91	Marble, travertine and alabaster:
	Marble:
6802.91.05	Slabs:
6802.91.15	Other.

In HQ 960495, after determining that the marble could not be classified in heading 2515, HTSUS, as roughly trimmed or merely cut building stone, Customs reasoned that because the articles, marble fireplace surrounds (consisting of headers, footers, hearths, risers or legs), were, in their condition as imported, designed to function as and comprise a complete fireplace surround, the marble slabs were classifiable as other articles of marble under subheading 6802.91.15, HTSUS. That is, by operation of GRI 1, Customs determined that the articles were classifiable under subheading 6802.91, as marble. Pursuant to GRI 6, the remaining GRI's were applied in order to determine which subheading best described the articles as imported. We reasoned that because the articles were installed together to form a uniquely shaped fireplace surround, they comprised an unassembled article and were therefore classifiable as marble other than in slab form.

In HQ 960495, Customs analyzed the classification of these articles by considering the effect of several prior rulings and by application of Additional U.S. Note 1 to Chapter 68 (see below). Initially, Customs relied on the holding made in HQ 955505, dated March 22, 1994. Customs revoked HQ 955505 in HQ 963321, issued on the date of this ruling. Customs further relied upon HQs 952678, dated December 30, 1992, and HQ 951047, dated September 17, 1992. In HQs 952678 and 951047, Customs held that under the definition provided in Additional U.S. Note 1, Chapter 68, HTSUS, pieces of marble the edges of which were cut more deeply or more widely than 1/32 of an inch were considered to have been "beveled, rounded or otherwise processed" to a greater extent than that needed to facilitate installation. Such pieces were held not to meet the definition of "slabs" of Additional U.S. Note 1, Chapter 68, HTSUS.

Customs has reconsidered its position, and now holds that marble headers, footers, hearths, risers or legs, provided they satisfy the criteria provided in Additional U.S. Note 1, Chapter 68, HTSUS, are classifiable in subheading 6802.91.05, HTSUS, as marble slabs.

The marble fireplace surrounds are clearly classified under subheading 6802.91, HTSUS, as marble. The issue to be determined is whether the articles are slabs pursuant to Additional U.S. Note 1, Chapter 68, HTSUS, which states:

For the purposes of heading 6802, the term "slabs" embraces flat stone pieces, not over 5.1 cm in thickness, having a facial area of 25.8 cm² or more, the edges of which have not been beveled, rounded or otherwise processed except such processing as may be needed to facilitate installation as tiling or veneering in building construction.

Additional U.S. Note 1 begins "for the purposes of heading 6802 * * *". In heading 6802, HTSUS, the term "slabs" is used as a subheading under the basket provision for "Other" worked monumental or building stone. It does not occur elsewhere in the heading. A careful reading of the U.S. Note, and a comparison of the subheadings at the same (8-digit) level clearly shows that the distinction to be made between "slabs" of heading 6802.91.05, HTSUS, and "other" articles of 6802.91.15, HTSUS, is that of the degree of working or processing to which the articles have been subjected. Such a distinction, based on the degree of work performed, is further evidenced by the terms of other subheadings under 6802, HTSUS (See, e.g., subheading 6802.91.20, HTSUS). The result is that "slabs", as defined in Additional U.S. Note 1, are classified separately from monumental or building stone that has been subjected to substantial working or processing.

When interpreting and implementing the HTSUS, the Explanatory Notes (ENs) of the Harmonized Commodity Description and Coding System may be utilized. The ENs, while neither legally binding nor dispositive, provide a guiding commentary on the scope of each heading, and are generally indicative of the proper interpretation of the HTSUS. Customs

believes the ENs should always be consulted. See, T.D. 89-90, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The ENs to heading 6802, HTSUS, provide, in pertinent part, that:

This heading covers natural monumental or building stone (except slate) which has been worked beyond the stage of the normal quarry products of Chapter 25[.]

The heading therefore covers stone, which has been further processed than mere shaping into blocks, sheets or slabs by splitting, roughly cutting or squaring, or squaring by sawing (square or rectangular faces).

The heading thus covers stone in the forms produced by the stonemason, sculptor, etc., viz.:

(B) Stone of any shape (including blocks, slabs or sheets), whether or not in the form of finished articles, which has been *** planed, sand dressed, ground, polished, chamfered, moulded, turned, ornamented, carved, etc.

The heading therefore includes not only constructional stone (*including facing slabs*) worked as above, but also articles such as *** door or window frames and lintels *** mantelpieces *** etc. (Emphasis added.)

Stone slabs forming the tops of articles of furniture (sideboards, washstands, tables, etc.) are classified in Chapter 94 if presented with the pieces of furniture (whether or not assembled) and clearly intended as parts thereof, but *such furniture tops presented separately remain in this heading* [emphasis added].

The articles, as entered, are slabs of marble which conform to the size restrictions delineated by Additional U.S. Note 1 to Chapter 68 and to the preliminary criteria established in the EN ("stone, which has been further processed than mere shaping into blocks, sheets or slabs by splitting, roughly cutting or squaring, or squaring by sawing (square or rectangular faces)").

Evidence was presented before the CIT that indicated that the articles in Court Nos. 94-10-00582 and 97-11-02013 are not regularly imported as unfinished surrounds. The marble headers, footers, hearths and risers or legs are designed, worked into and intended to be used as marble headers, footers, hearths and risers or legs; completely surrounding a fireplace opening when used in combination, independently (a single hearth, for example), or in any conceivable combination thereof. The marble slabs are imported in the various configurations provided above. The articles are not ready for immediate installation upon importation; rather, the articles are imported cut to general dimensions and must be further worked (*e.g.*, trimmed to specific size) prior to final installation.

Finally, there is no "assembly" of the surrounds. The marble slabs are not joined by fasteners, do not permanently interlock to form a single whole, and do not comprise a single article for classification purposes. The various marble slabs (headers, footers, hearth, risers or legs) are arranged around a fireplace for aesthetic purposes according to the desired effect of the installer. The installation of any of the articles is not dependent upon the installation of the others; the individual articles are simply glued to the wall around a fireplace opening (sometimes referred to as a "firebox"). Thus, although the articles can be matched and installed by the color and pattern of stone, any of the articles can be installed independently of the others. As such, we no longer consider the importation of such articles to be unassembled surrounds. Upon importation, provided the articles comply with the edicts of Additional U.S. Note 1, Chapter 68, HTSUS (see above), and HQs 952678 and HQ 951047, the articles are classifiable under subheading 6802.91.05, HTSUS.

Holding:

The marble fireplace surrounds (designated headers, footers, hearths, risers or legs), whether imported as grouped pieces or separate pieces, are classified under subheading 6802.91.05, as marble slabs.

Effect on Other Rulings:

HQ 960495, dated December 12, 1997, is REVOKED. In accordance with 19 U.S.C. 1625(c), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

REVOCATION OF RULING LETTER AND TREATMENT RELATING TO TARIFF CLASSIFICATION OF A MINI TORCH

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of tariff classification ruling letter and treatment relating to the classification of a mini torch.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling and any treatment previously accorded by Customs to substantially identical transactions, concerning the tariff classification of a mini torch, under the Harmonized Tariff Schedule of the United States (HTSUS). Notice of the proposed actions was published on March 29, 2000, in Vol. 34, No. 13 of the CUSTOMS BULLETIN. No comments were received in response to this notice.

EFFECTIVE DATE: These actions are effective for merchandise entered or withdrawn from warehouse for consumption on or after July 17, 2000.

FOR FURTHER INFORMATION CONTACT: Andrew M. Langreich, General Classification Branch: (202) 927-2318.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts, which emerge from the law, are "**informed compliance**" and "**shared responsibility**." These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met. Pursuant to Customs obligations, a notice of proposed revocation of New York

Ruling Letter (NY) C86913 was published on March 29, 2000, in Vol. 34, No. 13 of the CUSTOMS BULLETIN. No comments were received in response to this notice.

As stated in the proposed notice, this revocation action will cover any rulings on this merchandise, which may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice should have advised Customs during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930, as amended (19 U.S.C. § 1625(c)(2)), Customs is revoking any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the HTSUS. Any person involved in substantially identical transactions should have advised Customs during this notice period. An importer's reliance on a treatment of substantially identical transactions or on a specific ruling concerning the merchandise covered by this notice which was not identified in this notice, may raise the rebuttable presumption of lack of reasonable care on the part of the importers or their agents for importations of merchandise subsequent to the effective date of this final decision.

Customs, pursuant to 19 U.S.C. 1625(c)(1), is revoking NY C86913, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 962966 (*see* "Attachment A" to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs is to revoking any treatment previously accorded by Customs to substantially identical transactions.

In accordance with 19 U.S.C. 1625(c), this ruling will become effective sixty (60) days after its publication in the CUSTOMS BULLETIN.

Dated: May 1, 2000.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY

U.S. CUSTOMS SERVICE,
Washington, DC, May 1, 2000.

CLA-2 RR:CR:GC 962966 AML

Category: Classification

Tariff No. 8205.60.00

MR. RICHARD AMBROSE, JR.
F.J. NEIL COMPANY, INC.
1064 Route 109
Box 617
Lindenhurst, NY 11757-0617

Re: Reconsideration of NY C86913; butane mini torch.

DEAR MR. AMBROSE:

This is in reference to New York Ruling Letter (NY) C86913, issued to you on April 27, 1998, which concerned the classification of the "Iroda" brand "Micro-jet MJ-300" mini torch under the Harmonized Tariff Schedule of the United States (HTSUS). We have reconsidered NY C86913 and now believe that the classification set forth is incorrect. Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625 (c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), a notice was published on March 29, 2000, in Vol. 34, No. 13 of the CUSTOMS BULLETIN, proposing to revoke NY C86913 and to revoke the treatment pertaining to the mini torches. No comments were received in response to this notice.

Facts:

The "Iroda" brand "Micro-jet MJ-300" mini torch is a compact, butane mini torch that is comprised of two components: an internal cartridge and an external shell. The internal component, "Iroda RC-30," is a separate, disposable butane cartridge that resembles a disposable cigarette lighter. The fuel cartridge is housed in the external shell the top of which contains a flame nozzle, with cover, a depressible control button, and a safety lock. The packaging advertises the product as being appropriate for camping and outdoor use, first aid/survival kits, as well as tool kits. The reverse side of the packaging indicates that features of the article include a piezoelectric ignition system with a safety lock. Other literature submitted states that the mini torch is suitable for various "on-the-water" boat repairs or for "at-home" repairs, including soldering. The mini torch is designed to provide a concentrated, continuous flame at temperatures up to 1300° C (2,500° F).

Issue:

Whether the mini torches are classifiable as blow torches and similar self-contained torches under subheading 8205.60.00, HTSUS, or as cigarette lighters and other lighters under subheading 9613.80.20, HTSUS?

Law and Analysis:

The classification of merchandise under the HTSUS is governed by the General Rules of Interpretation (GRIs). GRI 1, HTSUS, provides, in part, that "for legal purposes, classification shall be determined according to terms of the headings and any relative section or chapter notes[.]"

The HTSUS headings and subheadings under consideration are as follows:

8205	Handtools (including glass cutters) not elsewhere specified or included; blow torches and similar self-contained torches; vises, clamps and the like, other than accessories for and parts of machine tools; anvils; portable forges; hand- or pedal-operated grinding wheels with frameworks; base metal parts thereof:
8205.60.00	Blow torches and similar self-contained torches, and parts thereof.
	* * * * *
9613	Cigarette lighters and other lighters, whether or not mechanical or electrical, and parts thereof other than flints and wicks:

9613.10.00	Pocket lighters, gas fueled, non-refillable:
9613.80	Other lighters:
9613.80.20	Electrical.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not legally binding on the contracting parties, and therefore not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Insofar as the applicability of subheading 8205.60.00, HTSUS, is concerned, we note that, because of the wording "not elsewhere specified or included," this subheading is a so-called "basket" provision. In such provisions, classification "is appropriate only when there is no tariff category that covers the merchandise more specifically" (*Apex Universal, Inc., v. United States*, CIT Slip Op. 98-69 (May 21, 1988)). Therefore, we are first addressing the other competing provisions. Only if classification in the competing provision is precluded will we address classification in subheading 8205.60.00, HTSUS.

The ENs to heading 9613 provide, in pertinent part:

This heading includes:

(1) Mechanical lighters.

These produce sparks, usually by means of a wheel with a milled-edge which is revolved in contact with a "flint" (generally of ferrocerium alloy).

(2) Electrical lighters.

Current from the mains or a battery produces a spark, or in certain types, a glowing heat in an electric resistor.

(3) Chemical lighters.

In these a catalyst (usually sponge platinum) is made to glow by catalytic action in the presence of a gas.

(4) Non-mechanical lighters.

One type consists of a container incorporating a fuel reservoir, and a small removable metal rod (the striker) fitted with a steel tip. The striking of the steel tip on a "flint" fixed on the outside of the container produces a spark which ignites an inflammable material near the tip of the striker.

The lighters classified in this heading may be of the pocket or table types, or may be designed for fixing on the wall, fitting to gas stoves, etc. The heading also includes lighters for motor cars or other vehicles.

* * * * *

The heading does not cover igniters of heading 36.03, flints (heading 36.06), wicks (heading 59.08 or 70.19) or fuel in containers (ampoules, bottles, cans, etc.) of a kind used for filling or refilling cigarette or similar lighters (generally heading 36.06).

Although the disposable butane cartridge resembles a cigarette lighter, the article is not adequately described by heading 6913, HTSUS or the relevant EN. The disposable butane cartridge, "Iroda RC-30," is manufactured specifically for use with the mini torch. Further, incorporation of the flame nozzle, with cover, a depressible control button, and a safety lock in the external shell which houses the butane cartridge readily differentiates the article from cigarette and other types of lighters provided for within the heading. Thus, the mini torch cannot be construed to be a cigarette lighter.

Unlike lighters, the primary function of which is to provide ignition for a fuel source, torches function as tools that provide sustained heat required for specific applications—generally for melting or burning. The instant product is designed to provide sustained heat, although the operating instructions warn against continued use for periods which exceed five minutes. Accordingly, we find that the mini torch is not classifiable under heading 9613, as a cigarette lighter.

The ENs to heading 8205 state, in pertinent part, that:

This heading covers all hand tools not included in other headings of this Chapter or elsewhere in the Nomenclature (see the General Explanatory Notes to this Chapter), together with certain other tools or appliances specifically mentioned in the title.

It includes a large number of hand tools (including some with simple hand-operated mechanisms such as cranks, ratchets or gearing). This group of tools includes:

* * * * *

(F) Blow lamps (e.g., for soldering or brazing; for paint removal; for starting semi-diesel engines). These lamps are of two types, both self-contained, differing in the type of fuel used, incorporating either a fuel reservoir for mineral oil or other liquid fuel (frequently with a small pump), or a replaceable gas-filled cartridge. In some cases, a soldering or branding iron or other attachment is fitted to the tip of the lamp. The heading does not cover gas-operated welding appliances (heading 84.68).

This article is classifiable pursuant to GRI 1. It is a torch and is provided for in the heading 8205, HTSUS, and described by the ENs relevant thereto.

This determination comports with a previous ruling of this office. In HQ 952560, dated October 20, 1992, a butane gas operated torch, which imparted the essential character of a "boat patch kit," was held to be classifiable in subheading 8205.60.00, HTSUS.

Holding:

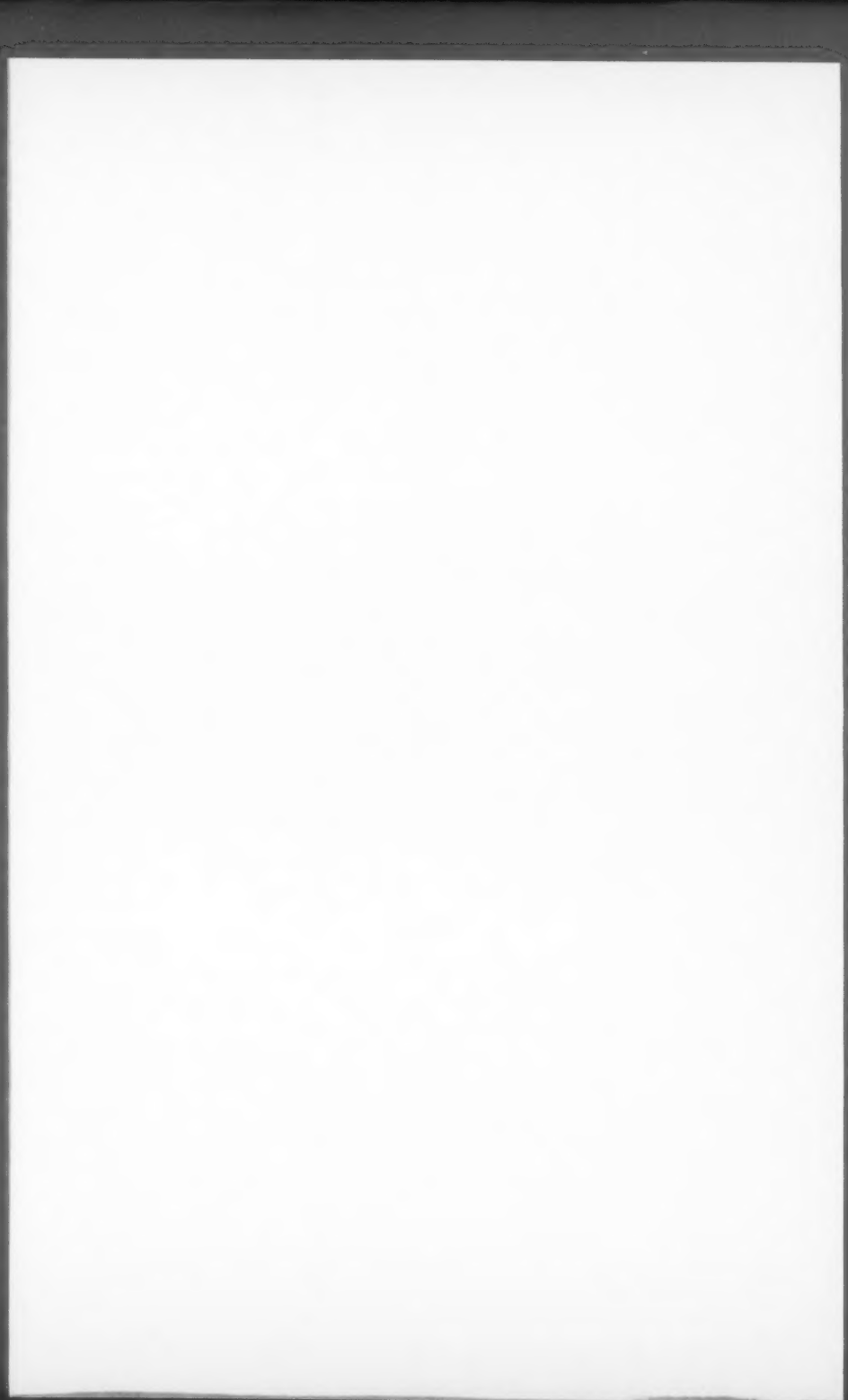
The "Iroda" brand "Micro-jet MJ-300" mini torch is classifiable under subheading 8205.60.00, HTSUS, as blow torches and similar self-contained torches.

Effect on Other Rulings:

NY C86913 is hereby REVOKED. In accordance with 19 U.S.C. §1625(c), this ruling will become effective sixty (60) days after its publication in the CUSTOMS BULLETIN.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)







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